

JUN 07 2007

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

) 2007 JUN -7 P 12:25
) MUR 5652
)

Sammy Joe Russo

SENSITIVE

GENERAL COUNSEL'S REPORT #5

I. ACTIONS RECOMMENDED:

1. Accept the attached conciliation agreement with Sammy Joe Russo.
2. Take no action other than to admonish Sammy Joe Russo regarding a violation of 2 U.S.C. § 441f.
3. Close the file as to Sammy Joe Russo.
4. Approve the appropriate letter.

II. DISCUSSION

This matter results from an audit of Terrell for Senate ("the Committee"), the principal campaign committee of Suzanne Haik Terrell, during her 2002 race for the United States Senate from Louisiana. Based on information obtained during the audit, the Federal Election Commission ("the Commission") found, among other things, reason to believe that Sammy Joe Russo violated 2 U.S.C. § 441a(a)(1)(A) by making \$13,000 in excessive contributions to the Committee and authorized pre-probable cause conciliation.¹

¹ The audit showed that Russo made contributions totaling \$15,000, \$13,000 of which was excessive. According to counsel, Russo initially disputed the \$15,000 contribution total that is attributed to him.

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1 In response to the Commission's conciliation offer, Russo asserted that he did not intend
2 to violate federal election laws and that he was assured by the Committee that his contributions
3 were permissible. See Russo's Reason To Believe Response (Attachment 1).² We have no
4 information to the contrary. We also received additional information from Russo during the
5 course of conciliation indicating that Russo intended that a portion (\$4,000) of his contributions
6 be attributed to other individuals. Nevertheless, for the reasons discussed below, we do not
7 recommend that the Commission pursue potential 441f violations as to Russo. Rather, we
8 recommend that the Commission accept the proposed signed conciliation agreement, which is
9 based solely on the 441a violation. We will first address the possible contributions in the name
10 of another and then the proposed conciliation agreement.

11 **A. Take No Action As To Possible 441f Violation**

12 According to the audit, Russo made contributions totaling \$15,000, of which \$13,000 was
13 excessive. [REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED] Attached to the check was a memorandum, which stated, *inter alia*, "Please find
17 enclosed my check for \$5,000 for your senatorial campaign. This check represents donations
18 from the following persons:"

19	Sammy Joe Russo	\$1,000
20	Rosary V. Russo	\$1,000
21	Christopher Russo	\$1,000

² [REDACTED]

Sammy J. Russo, Jr. \$1,000
Connie R. Hart \$1,000

Russo's intended attribution of contributions to other individuals indicates a possible violation of 2 U.S.C. § 441f. The Commission's regulations at 11 C.F.R. § 110.4(b)(2) describe examples of contributions in the names of others to include making a contribution of money and attributing as the source of the money another person when in fact the contributor is the source. As the contribution check indicates that Russo's personal account was the sole source of the funds used to make \$4,000 in contributions in the names of others, there appears to be reason to believe that Russo violated 2 U.S.C. § 441f. Notably, the Committee reported receiving \$1,000 contributions from the four intended contributors as memo entries stating "Joint Account Distribution" or "Joint Account." Since Russo's contribution check was not drawn on a joint account shared with the other four intended contributors, the contributions could not be lawfully attributed to them. See 11 C.F.R. § 110.1(k).

However, we do not believe that it would be worthwhile to pursue the additional 441f violation in this instance for the following reasons: First, the contributions in the names of others do not appear to have been the result of a scheme to disguise or conceal the true source of the contributions and do not appear to be knowing and willful. In fact, Russo openly disclosed his proposed attributions to the Committee in the correspondence accompanying the contribution check. Second, Russo had not previously contributed to the campaign of a federal candidate and does not appear to have been sophisticated in campaign finance law.³ Finally, Russo claims that he made the contributions based on the Committee's instructions and relied on the Committee to

³ Commission records show that Russo had previously contributed a total of \$3,250 (in amounts of \$600 or less) to the National Republican Congressional Committee between July 1998 and March 2001.

1 inform him of any improprieties regarding the contributions. Therefore, considering all of the
2 above factors, we recommend that the Commission take no action other than to admonish Russo
3 regarding the \$4,000 in contributions that were attributed to others.⁴

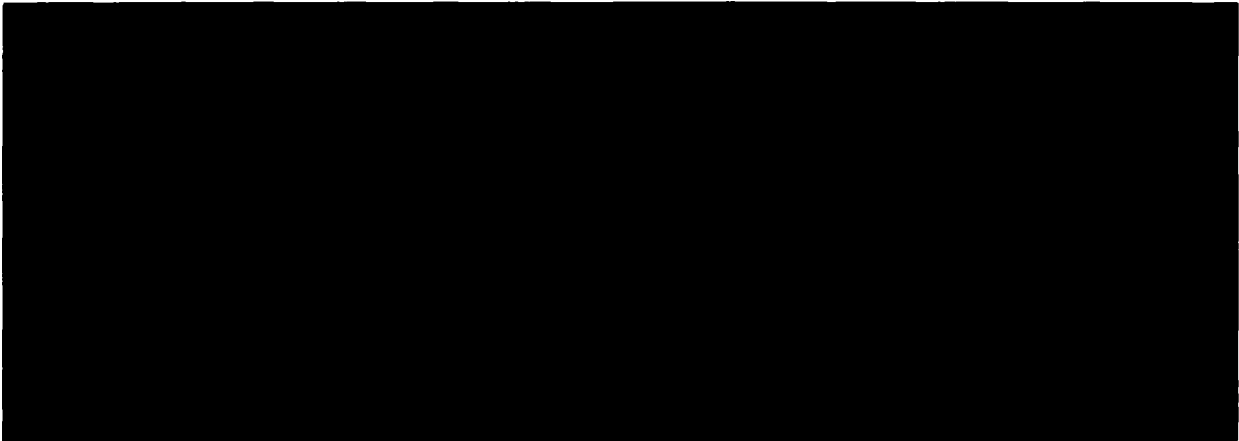
4 **B. The Conciliation Agreement**

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6 The conciliation agreement signed by Sammy Joe Russo is attached. See Attachment 2.

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⁴ The Commission took similar action in this matter regarding respondent Maitland Deland, who informed the Commission in her response to the Commission reason to believe finding (2 U.S.C. § 441a(a)(1)(A)) that contributions attributed to OncoLogics, Inc. were in fact contributions from her personal account that she intended to be attributed to her colleagues. See MUR 5652, General Counsel's Report #4 dated April 6, 2007 at 16-19. In her response, Deland provided copies of contribution checks drawn on her personal account showing the intended attributions and claimed that she relied on the Committee to review her contributions and notify her of any impropriety. Instead, the Committee deposited Deland's contribution checks and disclosed in its reports to the Commission some of the contributions in the names of Deland's colleagues. Considering that the section 441a(a)(1)(A) violation and the proposed 441f violation stemmed from the same contributions, the intended attributions were fully disclosed to the Committee and subsequently to the Commission, and the Commission had previously closed the file as to Deland, the Commission decided to take no action other than to admonish Maitland Deland regarding the contributions in the name of another. See MUR 5652, Commission's Certification dated May 2, 2007.

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Therefore, we
recommend that the Commission accept the attached conciliation agreement with Sammy Joe
Russo.

III. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Sammy Joe Russo.
2. Take no action other than to admonish Sammy Joe Russo regarding a possible violation of 2 U.S.C. § 441f.
3. Close the file as to Sammy Joe Russo.

4. Approve the appropriate letter.

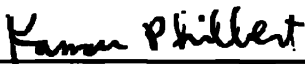
Thomasenia P. Duncan
General Counsel

4/7/07
Date

BY:


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Kaman Philbert
Attorney by C E T

Other Staff Assigned: Wanda Brown
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Attachments:

- 1 - Response to Commission's Reason To Believe Finding
- 2 - Signed Conciliation Agreement